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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,351	09/17/2001	Nathan T. Lee	11576.56US01	2171

21127 7590 02/06/2007  
RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP  
ONE STATE STREET  
SUITE 800  
BOSTON, MA 02109

EXAMINER
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THALER, MICHAEL H

ART UNIT	PAPER NUMBER
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3731

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/955,351

Applicant(s)

LEE ET AL.

Examiner

Michael Thaler

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3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) 3-8, 11 and 13-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 9, 10, 12 and 19-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Appendix A and B</u>                   |

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Sep. 28, 2006 has been entered.

Claims 3-8, 11 and 13-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 8. It is noted that claims 13-16 are withdrawn by applicant from further consideration since they are labeled "Withdrawn".

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9 is limited to the embodiment of figure 9 since the claim requires the same support structure (the second support structure) to be joined to both the first and third support structure with the connecting struts joining the first and second support structures extending in the opposite direction as compared to the connecting struts joining the

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second and third support structures. For example, CS 2 could be the first support structure, CS 3 could be the second support structure and CS 4 could be the third support structure in figure 9. However, figure 8 does not include a second support structure that meets these limitations. Further, claim 1 is limited to the embodiment of figure 8 since claim 1 requires that each support structure is directly connected to an adjacent support structure (lines 12-13) and figure 9 fails to show this. For example, CS 3 in figure 9 is not directly connected to an adjacent support structure. Thus, no single embodiment includes all of the features of claims 9 and 1.

Claims 1, 9, 10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Pinchasik et al. (5,449,373). Pinchasik et al. disclose a stent body having a plurality of adjacent circumferential support structures (one of which is labeled first support structure in appendix A, another being the one directly to the left of [and being a mirror image of] the first support structure, another being the one labeled second support structure, another being the one directly to the right of [and being a mirror image of] the second support structure, another being the one labeled third support structure, another being the one directly to the right of [and being a mirror image of] the third support structure) including longitudinal struts

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interconnected at apex portions, wherein each support structure is directly connected to an adjacent support structure (i.e. the adjacent support structure which is a mirror image of it) at a plurality but not all apex portions (For example, the support structure which is labeled first support structure in appendix A is directly connected to an adjacent support structure [at its left] at the apex portions on the left side of the first support structure, but not the apex portions on the right side of the first support structure.), and wherein some of the support structures (e.g. the first support structure) are interconnected to an adjacent support structure (e.g. the second support structure) by circumferential connecting struts (e.g. 112) extending between a plurality, but not all of the apex portions of the interconnected pairs of circumferential support structures (For example, the circumferential connecting struts 112 extending between the first and second support structures do not extend to the apex portions on the left side of the first support structure.) wherein said interconnected apex portions are circumferentially offset relative to one another (as seen in figures 2A, 2B and 2C). As to claim 9, the circumferential connecting struts on the left side of figure 2C of Pinchasik et al. extend in a first direction and the circumferential connecting struts on the right side of figure 2C extend in a

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second direction opposite the first direction. As to claim 10, some of the longitudinal struts (having length L1) are longer than other longitudinal struts (having length L2) and provide a longitudinal overlap as shown in the attached appendix B.

Claims 2, 19, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pinchasik et al. (5,449,373) in view of Wijay (5,824,059). As to claims 2 and 19, Pinchasik et al. fail to clearly show adjacent circumferential support structures being offset such that the apex portions on one side of a support structure are positioned intermediate the apex portions on a facing side of an adjacent support structure (claim 2) or the adjacent apex portions being circumferentially offset (claim 19). However, Wijay, in the embodiments of figures 3 and 4, teaches that adjacent circumferential support structures should be offset such that the apex portions on one side of a support structure are positioned intermediate apex portions on a facing side of an adjacent support structure to circumferentially stagger them. This staggered arrangement has the self-evident advantage of providing a more continuous support to the blood vessel around its circumference. It would have been obvious to so orient the circumferential support structures of Pinchasik et al. so that it too would have this advantage. As to claim 21, Pinchasik et al. fail to disclose the circumferential connecting

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struts as being perpendicular to the longitudinal struts. However, Wijay, in the embodiment of figure 4, teaches that the circumferential connecting struts 94 can be perpendicular to the longitudinal struts (col. 7, lines 12-16) apparently in order to obtain the advantage of enabling the stent portions 62, 64, 66, etc. to be closer to each other and thus providing a more continuous support to the blood vessel along the length of the stent. It would have been obvious to so orient the circumferential connecting struts 112 of Pinchasik et al. so that it too would have this advantage.

Applicant's arguments filed Jan. 8, 2007 have been fully considered but they are not persuasive for the reasons set forth above. Further, contrary to applicant's remarks at the top of page 10, the staggered arrangement of the Wijay circumferential support structures in figures 3 and 4 has the advantage of providing a more continuous support to the blood vessel around its circumference. If the apex portions of the Wijay circumferential support structures were aligned along the longitudinal axis of the stent instead of being staggered, then as one followed the circumference of the stent there would be a relatively large gap between the stent segments 62 and 64, for example, where the gap between the circumferentially adjacent


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apex portions of segment 62 aligned with the gap between the circumferentially adjacent apex portions of segment 64.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571) 272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

mht



MICHAEL THALER  
PRIMARY EXAMINER  
ART UNIT 3731



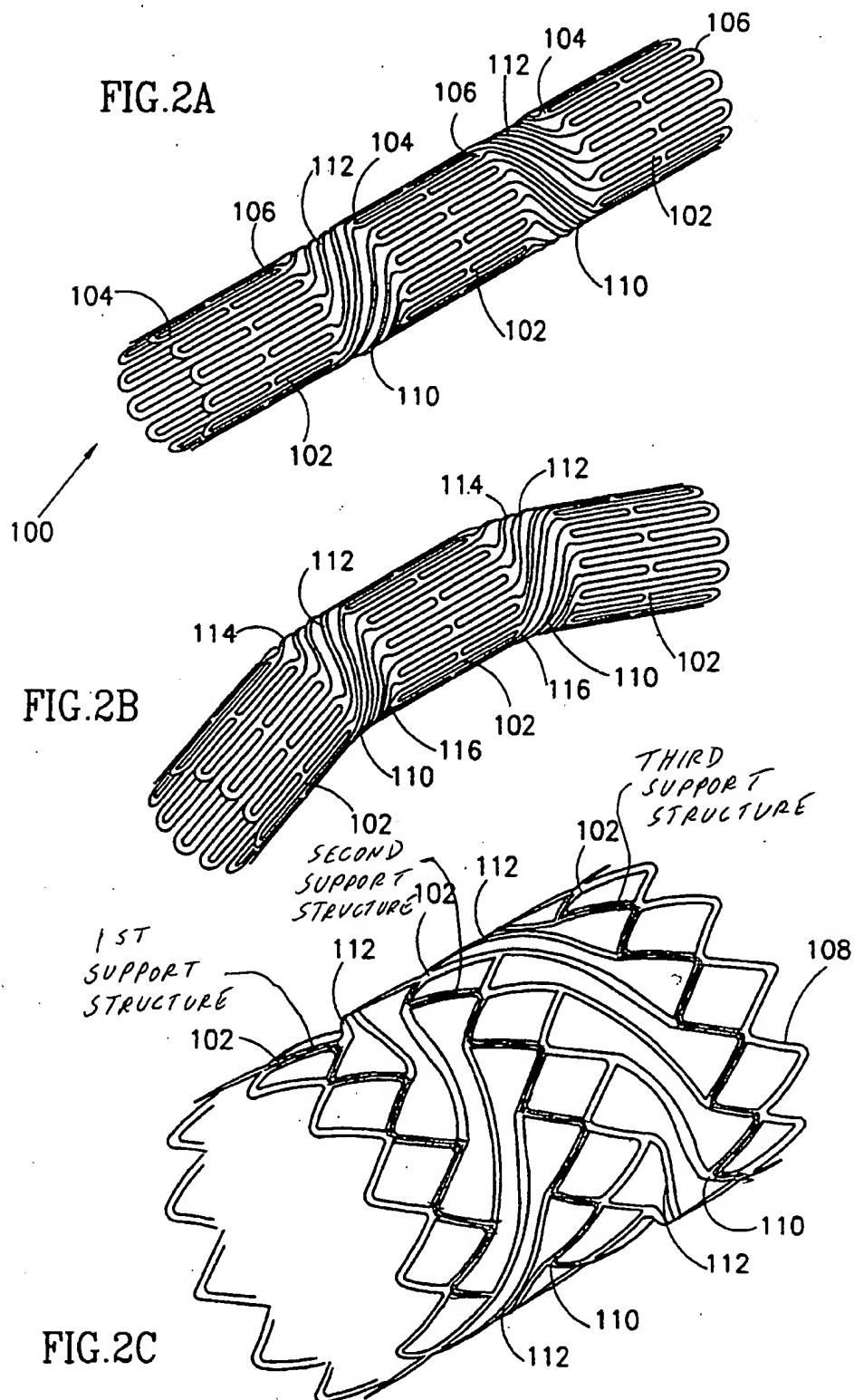
APPENDIX A

U.S. Patent

Sep. 12, 1995

Sheet 2 of 5

5,449,373



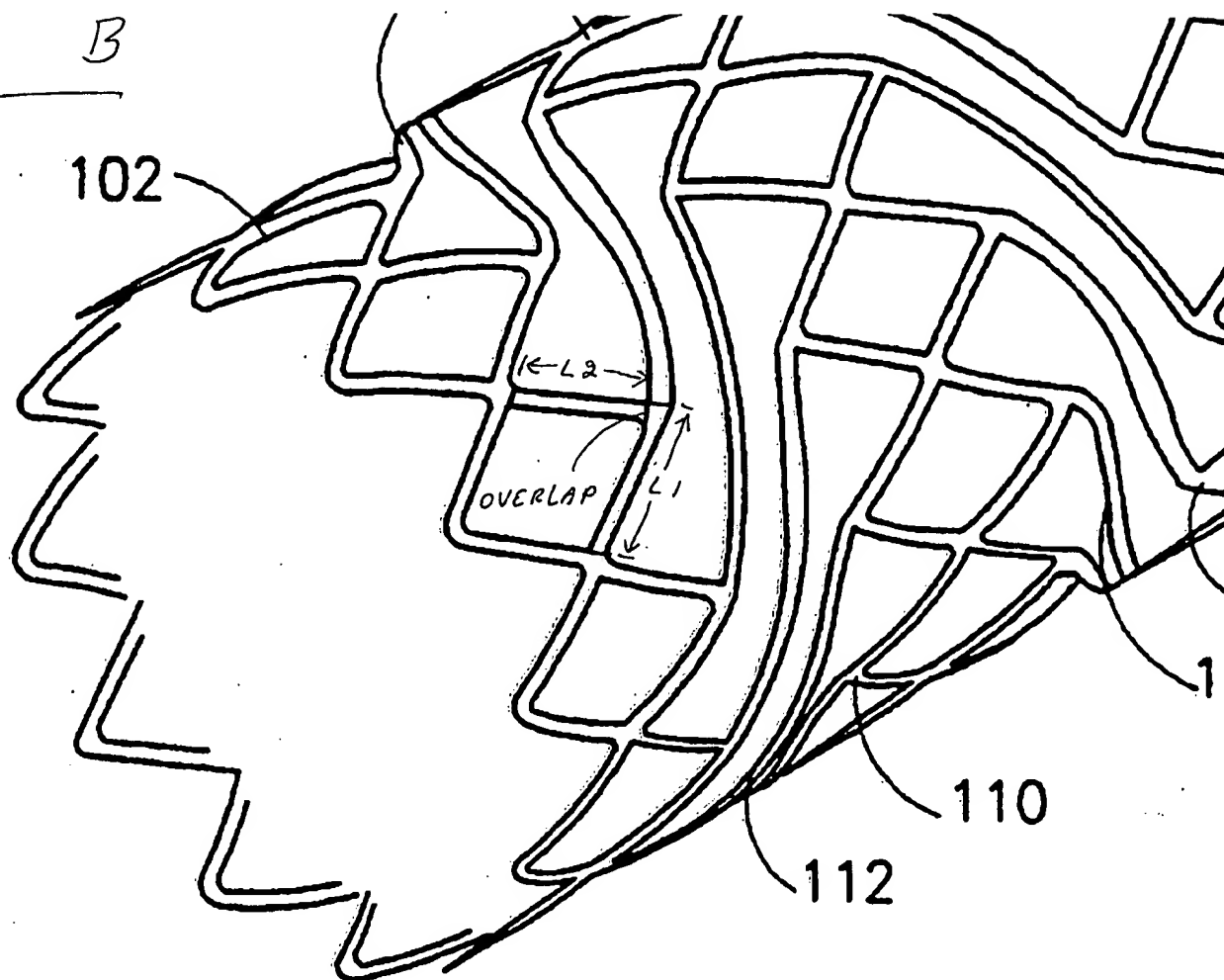


FIG.2C